UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VEREIT, Inc.,

                       Plaintiff,

       -against-

NICHOLAS S. SCHORSCH, PETER M. BUDKO,
WILLIAM M. KAHANE, AND EDWARD M.
WEIL,

                      Defendants.

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**ORDER REGARDING
DEFENDANTS' MOTION TO
DISMISS**

17 Civ. 6546 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

On October 24, 2017, defendants filed a motion to dismiss this action.
Defendants advanced two bases for dismissal: (1) that the Court lacks subject matter jurisdiction
under Rule 12(b)(1) of the Federal Rules, and (2) that the Court should abstain from hearing this
case in light of pending litigation in the Delaware Court of Chancery. On January 22, 2018, the
parties informed the Court that the Delaware Court of Chancery granted VEREIT Inc.'s motion
to dismiss the claim against VEREIT in Delaware for lack of personal jurisdiction. *See Weil v.
VEREIT Operating Partnership*, C.A. No. 2017-0613-JTL (Del. Ch. December 13, 2017). In
light of the Delaware Court of Chancery's disposition, defendants' contention that the Court
should abstain under *Wilton v. Seven Falls Co.*, 515 U.S. 227 (1995) is moot, and that part of the
motion is denied.

As to subject matter jurisdiction, that issue shall be promptly decided in advance

of proceedings involving other issues. The parties shall appear on January 26, 2018 at 10:00

a.m. for a status conference to order such discovery as each side reasonably requires before the

issue is decided, after renewal of the motion to dismiss or trial, as the Court may determine. The

parties shall meet and confer in advance of the status conference. The oral argument, currently

scheduled for January 24, 2018, is no longer necessary and is cancelled. Decision on defendants'

motion to dismiss relating to lack of jurisdiction is deferred.

          SO ORDERED.

Dated: January 22, 2018
             New York, New York

                                ALVIN K. HELLERSTEIN
                                United States District Judge